

referred to herein as “coatings”) at the Facility. These coatings contain volatile organic compounds (“VOCs”), hazardous air pollutants (“HAPs”), and volatile organic hazardous air pollutants (“VOHAPs”).

7. Rockland Marine uses spray guns, brushes and rollers to apply coatings to the hulls, decks and other surfaces of commercial and military ships at the Facility.

8. At the time of the Inspection, Rockland Marine had four spray guns for applying coatings to commercial and military ships at the Facility. In addition, Rockland Marine employs a contractor that uses spray guns for applying coatings to commercial and military ships at the Facility.

9. Rockland Marine conducts surface coating operations at the Facility with annual marine coating usage in excess of 1,000 liters (264 gallons).

10. The Shipbuilding NESHAP applies to shipbuilding and ship repair operations at any facility that is a major source of HAPs. See 40 C.F.R. § 63.781(a).

11. The term “ship” is defined by the Shipbuilding NESHAP as “any marine or freshwater vessel used for military or commercial operations, including self-propelled vessels, those propelled by other craft (barges), and navigational aids (buoys).” See 40 C.F.R. § 63.782.

12. The term “major source” is defined by the Shipbuilding NESHAP as “any source that emits or has the potential to emit, in the aggregate, 9.1 megagrams per year (10 tons per year) or more of any HAP or 22.7 megagrams per year (25 tons per year) or more of any combination of HAPs.” See 40 C.F.R. § 63.782.

13. The Standards of the Shipbuilding NESHAP apply to the owner or operator of any existing or new affected source. See 40 C.F.R. § 63.783.

14. The term “affected source” is defined by the Shipbuilding NESHAP as “any shipbuilding or ship repair facility subject to the Shipbuilding NESHAP that has surface coating operations with a minimum 1,000 liters (264 gallons) annual marine coating usage.” See 40 C.F.R. § 63.782.

15. Sections 502(a) and 503(c) of the Act, 42 U.S.C. §§ 7661a(a) and 7661b(c), and EPA’s State Operating Permit Program regulations at 40 C.F.R. §§ 70.5(a) and 70.7(b), require a major source to apply for and operate in accordance with a Title V operating permit within 12 months of becoming subject to a state’s operating permit program.

16. The State of Maine received interim approval for its Title V Operating Permit Program on March 24, 1997, and final approval on December 17, 2001. See 40 C.F.R. Part 70, Appendix A. The Maine operating permit program applies to, among other things, any facility that is subject to a federal NESHAP. See Maine Department of Environmental Protection Air Rules at Chapter 140, Paragraph 1.C.3.

LEGAL FINDINGS AND NOTICE OF VIOLATION

A. Shipbuilding NESHAP, 40 C.F.R. Part 63, Subpart II

17. Rockland Marine’s Facility is a “major source” of HAPs under Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a), and subject to the Shipbuilding NESHAP, because the use of spray guns, brushes, and rollers to apply coatings at the Facility give it the potential to emit 10 tons per year or more of any single HAP or 25 tons per year or more of any combination of HAPs.

18. Rockland Marine’s Facility is an “affected source” of HAPs under 40 C.F.R. § 63.782 because its annual marine coating usage for surface coating exceeds 1,000 liters (264 gallons).

19. The effective date of the Shipbuilding NESHAP was December 15, 1995. Each owner or operator of an existing affected source was required to comply with the Shipbuilding

NESHAP within two years after the effective date. See 40 C.F.R. § 63.784(a). Therefore, Rockland Marine, as an affected source, has been required to comply with the Shipbuilding NESHAP since December 16, 1997 (the “Compliance Date”).

20. Pursuant to 40 C.F.R. §§ 63.787(a), 63.9(b)(1)(i), and 63.9(b)(2), Rockland Marine was required to submit to EPA written notification that the Facility was subject to the Shipbuilding NESHAP as an affected source within 180 days of when Rockland Marine became subject to the NESHAP. This initial notification was due to EPA by June 13, 1996. To date, Rockland Marine has not submitted an initial notification.

21. Accordingly, Rockland Marine has violated 40 C.F.R. §§ 63.787(a), 63.9(b)(1)(i), and 63.9(b)(2).

22. Pursuant to 40 C.F.R. § 63.787(b)(1), Rockland Marine, as an affected source, was required to submit an implementation plan addressing compliance with the requirements set forth in 40 C.F.R. § 63.787(b)(3). This implementation plan was required to be submitted to EPA by December 15, 1996. See 40 C.F.R. § 63.787(b)(1)(ii). To date, Rockland Marine has not submitted an implementation plan.

23. Accordingly, Rockland Marine has violated, and continues to violate, 40 C.F.R. §§ 63.787(b)(1) and 63.787(b)(3).

24. Pursuant to 40 C.F.R. § 63.788(c), Rockland Marine, as an affected source, is required to submit semiannual compliance reports for the Facility to EPA. The semiannual reports are due by the 60th day following completion of each six month period after the Compliance Date. To date, Rockland Marine has not submitted any semiannual compliance reports.

25. Accordingly, Rockland Marine has violated, and continues to violate, 40 C.F.R. § 63.788(c).

26. Pursuant to 40 C.F.R. § 63.788(b)(2), Rockland Marine, as an affected source, is required to compile records on a monthly basis and maintain those records for a minimum of five years.

Rockland Marine has failed to compile and maintain some, if not all, of these required monthly records. At a minimum, these records include:

- a. all documentation supporting the initial notification;
- b. a copy of the affected source's approved implementation plan;
- c. the volume of each "low usage exempt" coating applied (as stated in 40 C.F.R. § 63.781(b), "low usage exempt" coatings are those that are used in quantities of less than 52.8 gallons per year, provided the total volume of exempt coatings does not exceed 264 gallons per year);
- d. identification of the coatings used, their appropriate coating categories, and the applicable VOHAP limit;
- e. certification of the as-supplied VOC content of each batch of coating;
- f. a determination of whether coating containers meet the standards described in 40 C.F.R. § 63.783(b)(2); and
- g. the results of any Method 24 testing done in accordance with Appendix A to 40 C.F.R. Part 60 or approved VOHAP measurement tests conducted on individual coating containers, as applied.

27. Accordingly, Rockland Marine has violated, and continues to violate, 40 C.F.R. § 63.788(b)(2).

28. Pursuant to 40 C.F.R. §63.783, no owner or operator of any existing or new affected source shall cause or allow the application or any coating to a ship with an as-applied VOHAP

content exceeding the applicable limit given in Table 2 of this subpart as determined by the procedures described in 40 C.F.R. 63.785(c)(1) through (c)(4).

29. EPA has made no determination as to Rockland Marine's compliance with 40 C.F.R. §63.783.

B. Title V Operating Permit

30. Rockland Marine, as a "major source" under Section 501(2)(A) of the CAA, 42 U.S.C. § 7661(2), was required to apply for and operate in accordance with a Title V operating permit within 12 months of becoming subject to the State of Maine's Operating Permit Program. See 42 U.S.C. §§ 7661a(a) and 7661b(c). To date, Rockland Marine has not applied for and obtained a Title V operating permit.

31. Accordingly, Rockland has violated, and continues to violate, Sections 502(a) and 503(c) of the Act, 42 U.S.C. §§ 7661a(a) and 7661b(c), and 40 C.F.R. §§ 70.5(a) and 70.7(b).

ENFORCEMENT

32. At any time EPA may take any or all of the following actions in accordance with the provisions of Section 113 of the Act: (a) issue an order requiring compliance with the Act; (b) issue an administrative penalty order; or (c) bring a civil action in federal district court for an injunction and/or monetary penalties up to \$44,539 per day for each violation. See Sections 113(a), (b) and (d) of the Act, 42 U.S.C. §§ 7413(a), (b) and (d), 40 C.F.R. Part 19.4, and the Civil Monetary Penalty Inflation Adjustment Rule, 81 Fed. Reg. 4309 (July 1, 2016) (CAA judicial and administrative penalties raised from \$25,000 to \$44,539, effective after November 2, 2015).

33. If Rockland Marine has knowingly violated the requirements of the Act, Rockland Marine and its responsible corporate officers may be subject to criminal penalties under Title 18

of the United States Code, imprisonment for not more than five years, or both. See Section 113(c) of the Act, 42 U.S.C. § 7413(c).

34. Be advised that the issuance of this NOV does not preclude EPA from electing to pursue any other remedies or sanctions authorized by law that are available to address the violations alleged above.


OPPORTUNITY TO CONFER

35. If Rockland Marine has any questions regarding this NOV, please contact Christine Sansevero, Senior Enforcement Coordinator, at (617) 918-1699, or have your legal counsel contact Kevin Pechulis, Enforcement Counsel, at (617) 918-1612. Rockland Marine may request an opportunity to confer with EPA within 14 days of issuance of this NOV by contacting Ms. Sansevero or Mr. Pechulis at the phone numbers listed above.

EFFECTIVE DATE AND APPLICABILITY

36. This NOV shall become effective immediately upon issuance by EPA. This NOV applies to Rockland Marine, its officers, agents, servants, employees, successors, and assigns, and to all persons, firms, and corporations acting under, through, or for Rockland Marine. This NOV is not subject to Office of Management and Budget review under the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

SO ISSUED:


Susan Studlien, Director
Office of Environmental Stewardship
U.S. EPA, Region 1

11/10/2016
Date

